

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APRIL 27, 1989

Richard G. Stoll
Freedman, Levy, Kroll & Simonds
Washington Square - 1050 Connecticut Ave., N.W.
Washington, D.C. 20036-5339

Dear Mr. Stoll:

This is in response to your letter of April 4, 1989 requesting an interpretation of the new medical waste tracking regulations as they apply to certain industrial furnaces which receive regulated medical wastes.

As you know, on March 24, 1989, EPA published final regulations establishing a demonstration program for tracking medical waste generated in "covered states". Under those regulations, EPA clarified that the scope of the tracking program does not extend to waste which has been treated and destroyed. See 259.30(b)(1)(iii) and (iv). Thus, for example, the ash residues from medical waste which has been incinerated would not be subject to the tracking program; the incineration facility is considered the final destination point of the regulated medical waste. 54 Fed. Reg. 12343 (March 24, 1989).

Because neither the regulation nor the preamble specifically refer to industrial furnaces, such as cement or lime kilns, you requested confirmation that these facilities would be considered treatment and destruction facilities under the Part 259 regulations. Your letter explains that these kilns would, through thermal treatment and destruction, render medical waste materials no longer recognizable as medical waste. As I understand the operation of kilns, they would burn the waste at a high temperature, leaving only a dust residue.

Part 259 does not specifically define "treated and destroyed medical waste" or "treatment and destruction facility". However, Section 259.10 defines "destroyed" medical waste as waste "ruined...through processes such as thermal treatment...so that it is no longer generally recognizable as medical waste." "Treated" medical waste is defined as waste "that has been treated to substantially reduce or eliminate its potential for causing disease." Thermal treatment by incineration or burning in industrial furnaces should substantially reduce or eliminate the biological hazards associated with medical waste. To the extent that lime and cement kilns thus treat the waste and also render the waste unrecognizable as medical waste, they would meet both criteria, and thus would qualify as treatment and destruction facilities under Part 259.

Accordingly, a cement kiln or lime kiln may be a "destination facility" for purposes of the medical waste tracking program since the definition of such facilities under Section 259.10 includes any facility that "both treats and destroys regulated medical waste". As a result, a generator of regulated medical waste may ship the waste to a cement or lime kiln for treatment and destruction, noting the kiln as the destination facility on the tracking form. The residues from the treatment and destruction of medical waste in such kilns would be excluded from further tracking under Section 259.30(b)(1)(iv). Similarly, such kilns would be considered "destination facilities" for purposes of the transporter report form, designated as facility type 5 (treatment and destruction facilities other than incinerators).

Of course, there may be additional requirements for medical waste treatment and destruction facilities imposed under the applicable state law.

Please don't hesitate to call me or Michael Petruska in the Office of Solid Waste if you have further questions about this issue.

Sincerely,

Caroline H. Wehling
Attorney
Solid Waste and Emergency Response Division (LE-132S)

cc: Michael Petruska

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April 4, 1989

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Dear Carrie:

I would like to confirm the points we recently discussed regarding EPA's new medical waste regulations. 54 Fed. Reg. 12326-95, March 24, 1989. If the following accurately characterizes the points you were making, I would appreciate your confirming this in writing.

As you will recall, my questions focused on the status of industrial furnaces -- in particular cement and/or lime kilns -- under the new regulations. As the regulations do not specifically mention such types of furnaces, I was seeking reassurances that such facilities may be appropriate off-site facilities for accepting medical wastes. As we discussed, a cement or lime kiln would through thermal treatment and destruction render such materials no longer recognizable as medical waste.

I believe we agreed to the following basic points:

1. A cement or lime kiln may properly be considered a "destination facility" as defined in new 259.10(a), as such a kiln may be considered to "treat and destroy" regulated medical waste.
2. Accordingly, a generator may legally ship its medical waste to a cement or lime kiln for treatment and destruction of such waste, and a cement or lime kiln may be an appropriate entry in block 8 ("Destination Facility Name and Addresses") of the new Medical Waste Tracking Form. 54 Fed. Reg. 12383.

3. For purposes of the "Intermediate Handler or Destination Facility Identification" form (54 Fed. Reg. 12391), a cement or lime kiln would use code #5 for "Type of Facility." Code #5 is "Treatment and Destruction Facility (other than incinerator)."

4. If a cement or lime kiln is burning medical waste, its kiln dust would be considered a "residue from a treatment and destruction process." Accordingly, under new 259.30(b) (1) (iv), such kiln dust would not be a medical waste subject to the tracking system.

Please call me if you would like to discuss this further. I look forward to receiving a letter from you on these points. Thank you very much for your consideration.

Very truly yours,

Richard G. Stoll